



U.S. Department of Justice

Immigration and Naturalization Service

E

OFFICE OF ADMINISTRATIVE APPEALS

425 Eye Street N.W.

ULLB, 3rd Floor

Washington, D.C. 20536

FILE: [REDACTED] Office: Texas Service Center

Date: JAN 24 2000

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under § 244 of the
Immigration and Nationality Act, 8 U.S.C. 1254a

IN BEHALF OF APPLICANT: Self-represented

Public Copy

INSTRUCTIONS:

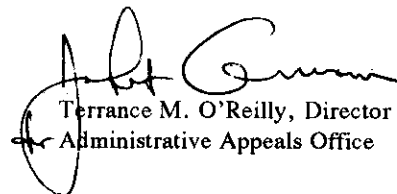
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Terrance M. O'Reilly, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who indicated on his application that he was present in the United States without a lawful admission or parole in July 1990. The director denied the application for Temporary Protected Status (TPS) under § 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a, because the applicant had been convicted of two or more misdemeanors committed in the United States and there is no waiver available for such actions.

On appeal, the applicant requests to have his case reviewed. The applicant states that he is trying to do the best for himself and his family.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. 244, provide that an applicant who is a national of Honduras is eligible for temporary protected status only if such alien establishes that he or she:

- a. Is a national of a state designated under § 244(b) of the Act;
- b. Has been continuously physically present in the United States since December 30, 1998;
- c. Has continuously resided in the United States since such date;
- d. Is admissible as an immigrant;
- e. Is not ineligible under 8 C.F.R. 240.4; and
- f. Pursuant to § 303(b)(1) of IMMACT 90, has timely registered for such status between January 5, 1999 and July, 2000.

Section 244(c)(2)(B)(i) of the Act, 8 U.S.C. 1254A(c)(2)(B)(i), provides, in part, that an alien shall not be eligible for temporary protected status under this section if the Attorney General finds that the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States.

The record reflects the following:

- (1) On February 4, 1998, the applicant was convicted of driving under the influence of alcohol. The applicant was sentenced to time served (1 day), was placed on probation for 12 months and fined.
- (2) On October 2, 1998, the applicant was convicted of probation violation. He was sentenced to a continuation of his original order of probation.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and

is otherwise eligible under the provisions of § 244 of the Act. The applicant has failed to meet this burden. The applicant is not eligible for temporary protected status because he has been convicted of two misdemeanors for which there is no waiver and there is no provision for removal of that ground of ineligibility.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.